

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

IN RE: MARVA YOLANDA DANIEL

Case No. 14-34850-KRH  
Chapter 13

Debtor.

**ORDER DENYING MOTION TO EXTEND THE AUTOMATIC STAY**

This matter came upon Marva Yolanda Daniel's (the "Debtor") Motion to Extend the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(3)(B) and the Affidavit in Support Thereof (the "Motion"). A hearing on the Motion was held on October 1, 2014 (the "Hearing"), at which the Debtor was present with her counsel. The Court has jurisdiction over the parties and the subject matter of this proceeding pursuant to 28 U.S.C. §§ 157(a) and 1334 and the general order of reference from the United States District Court for the Eastern District of Virginia dated August 15, 1984, and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (G), and that venue is appropriate in this Court pursuant to 28 U.S.C. § 1408.

The Debtor filed this bankruptcy case on September 9, 2014. The Debtor has had a total of six prior bankruptcy cases filed in her name. This includes one chapter 13 bankruptcy case identified at the Hearing, where the Debtor testified that in November of 2003 she authorized her brother to file a bankruptcy case in her name in the Middle District of Florida (the "Florida Bankruptcy Case"). The Florida Bankruptcy Case was dismissed less than 30 days after it was filed, in December of 2003. The debtor has filed a total of five cases with this Court prior to this current case. Case No. 97-35942 was filed on August 25, 1997, and was discharged on December 12, 1997. Case No. 98-33381 was filed May 4, 1998, and was discharged on January 1, 2001. Case No. 08-31002 was filed on March 4, 2008, and was dismissed on December 24,

2009. Case No. 10-34871 was filed on July 12, 2010, and was dismissed on November 15, 2011. Finally, Case No. 12-35693 was filed on October 1, 2012, and was dismissed on August 25, 2014 for failure to make plan payments (the “Prior Case”). This pattern of filings shows that the Debtor has spent a significant portion of the past seventeen years in bankruptcy.

Because the Prior Case was pending during the year immediately preceding the filing of this case, the provisions of § 363(c)(3) of the Bankruptcy Code apply to the instant case. That section effectively provides that where a debtor has been a debtor in a previous bankruptcy case that was dismissed within one year of the filing of the new case, the automatic stay of § 362(a) terminates as to the debtor on the 30th day following the new filing unless within that 30 days the debtor seeks an extension of the stay and the court grants the extension within the 30-day period. In order to obtain an extension of the stay, a debtor must prove by clear and convincing evidence that the filing of the new case was in good faith as to the creditors that would be affected by the stay. 11 U.S.C. § 362(c)(3)(B)–(C); *see also In re Chaney*, 362 B.R. 690 (Bankr. E.D. Va. 2007).

Based upon the Debtor’s extensive filing history and her testimony at the Hearing regarding the Florida Bankruptcy Case, the Court finds that the Debtor has failed to rebut the presumption that this new case was not filed in good faith. As the presumption has not been rebutted, the Court will deny the Motion. The Court previously has held that § 362(c)(3)(A) effects a termination of the stay only with respect to actions taken against the debtor and property of the debtor. The stay that terminates under § 362(c)(3)(A) is not the stay that protects property of the estate. *See In re Taylor*, No. 07-31055-KRH, 2007 WL 1234932 (Bankr. E.D. Va. April 26, 2007). Therefore,

IT IS ORDERED that the motion for continuation of the stay with respect to the Debtor is  
DENIED.

/s/ Kevin R. Huennekens  
United States Bankruptcy Judge

Entered: 10/2/2014

Entered on Docket: 10/7/2014

Copies to:

**Marva Yolanda Daniel**  
1500 Alaska Drive  
Richmond, VA 23224

**Robert E. Hyman**  
P.O. Box 1780  
Richmond, VA 23218-1780

**James E. Kane**  
Kane & Papa, PC  
1313 East Cary Street  
P.O. Box 508  
Richmond, VA 23218-0508

**Certificate of Notice Page 4 of 5**  
 United States Bankruptcy Court  
 Eastern District of Virginia

In re:  
 Marva Yolanda Daniel  
 Debtor

Case No. 14-34850-KRH  
 Chapter 13

**CERTIFICATE OF NOTICE**

District/off: 0422-7

User: oliverb  
 Form ID: pdford1

Page 1 of 2  
 Total Noticed: 24

Date Rcvd: Oct 07, 2014

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 09, 2014.

db  
 12540693 +Marva Yolanda Daniel, 1500 Alaska Drive, Richmond, VA 23224-3107  
 12540696 +BWW Law Group, LLC, 8100 Three Chopt Road, Suite 240, Henrico, VA 23229-4833  
 12540694 +CJW Medical Center, PO Box 740760, Cincinnati, OH 45274-0760  
 12540698 +Capital 1 Bank, Attn: General Correspondence, PO Box 30285, Salt Lake City, UT 84130-0285  
 12540700 +First Premier Bank, 601 S Minnesota Ave, Sioux Falls, SD 57104-4868  
 12540701 Fuels Oils, Inc., P.O. Box 12203, Roanoke, VA 24018-0000  
 12540701 +Harris, Harris & Harris, Ltd., 111 W Jackson Blvd 400, Chicago, IL 60604-4135  
 12540702 +Hsbc Bank, PO Box 5253, Carol Stream, IL 60197-5253  
 12540704 +Midnight Velvet, Swiss Colony Midnight Velvet, 1112 7th Ave, Monroe, WI 53566-1364  
 12540705 #+Quantum Servicing Corp, 6302 E MLK Blvd Suite 300, Tampa, FL 33619-1166  
 12540706 +Statebridge Company, 4600 South Syracuse Street, Denver, CO 80237-2750  
 12541186 +United States Attorney, Main Street Centre 18th Flr., 600 East Main Street, Richmond, VA 23219-2416  
 12540708 +Verizon, 500 Technology Dr, Ste 550, Weldon Spring, MO 63304-2225  
 12540707 +Verizon, 500 Technology Dr Ste 30, Weldon Spring, MO 63304-2225

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center. smg

12540690 +E-mail/Text: ustpregion04.rh.ecf@usdoj.gov Oct 08 2014 02:53:36 UST smg Richmond, Office of the U. S. Trustee, 701 East Broad St., Suite 4304, Richmond, VA 23219-1849  
 12540690 +Fax: 864-336-7400 Oct 08 2014 04:36:37 Advance America, 5642 Brook Road, Richmond, VA 23227-2273  
 12540691 +E-mail/Text: roy.buchholz@allianceoneinc.com Oct 08 2014 02:52:53 Alliance One, PO Box 3107, Southeastern, PA 19398-3107  
 12540692 +E-mail/PDF: EBN\_AIS@AMERICANINFOSOURCE.COM Oct 08 2014 03:01:53 American Infosource LP, PO Box 248838, Oklahoma City, OK 73124-8838  
 12540695 +Fax: 614-760-4092 Oct 08 2014 03:46:37 Check Smart, 159 E. Belt Blvd., Richmond, VA 23224-1203  
 12540697 +E-mail/Text: creditonebknofications@resurgent.com Oct 08 2014 02:52:57 Credit One Bank, PO Box 98873, Las Vegas, NV 89193-8873  
 12540699 +Fax: 614-760-4092 Oct 08 2014 03:46:37 First Virginia, 159 E Belt Blvd, Richmond, VA 23224-1203  
 12540703 E-mail/Text: cio.bncmail@irs.gov Oct 08 2014 02:53:07 Internal Revenue Service, Kansas City, MO 64999-0002  
 12553147 E-mail/Text: bnc-quantum@quantum3group.com Oct 08 2014 02:53:32 Quantum3 Group LLC as agent for, ACE Cash Express INC, PO Box 788, Kirkland, WA 98083-0788  
 12540709 E-mail/Text: bkr@taxva.com Oct 08 2014 02:54:40 Virginia Dept. of Taxation, Post Office Box 1115, Richmond, VA 23218-1115

TOTAL: 10

\*\*\*\*\* BYPASSED RECIPIENTS (undeliverable, \* duplicate) \*\*\*\*\*

cr Waterfall Victoria Mortgage Trust 2010-1

TOTALS: 1, \* 0, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Addresses marked '#' were identified by the USPS National Change of Address system as requiring an update. While the notice was still deliverable, the notice recipient was advised to update its address with the court immediately.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Oct 09, 2014

Signature: /s/Joseph Speetjens

**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 7, 2014 at the address(es) listed below:

Amy C Czekala on behalf of Creditor Waterfall Victoria Mortgage Trust 2010-1  
 aczekala@closingsource.net,  
 stapp@closingsource.net; vaecf@closingsource.net; gmullen@closingsource.net

District/off: 0422-7

User: oliverb  
Form ID: pdford1

Page 2 of 2  
Total Noticed: 24

Date Rcvd: Oct 07, 2014

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email)  
system (continued)

James E. Kane on behalf of Debtor Marva Yolanda Daniel jkane@kaneandpapa.com,  
Jkanelawfirm@gmail.com/srparalegal.ecf@gmail.com  
Robert E. Hyman station08@ricva.net, ecfssummary@ricva.net

TOTAL: 3